

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 282 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

PRABHUBHAI SHYAMANDAS HASRAJANI

Versus

STATE OF GUJARAT

Appearance:

MS SM AHUJA for Petitioner

MR BY MANKAD ADDL PUBLIC PROSECUTOR for Respondent No. 1

MR MAHENDRA K PATEL for Respondent No. 2

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 02/09/1999

ORAL JUDGEMENT

#. Heard Ms.Ahuja, learned advocate appearing for the revisioner. Rule. Mr.Mankad, learned APP appears and waives service of Rule for Respondent No.1 and Mr.M.K. Patel, learned advocate appears and waives service of rule for respondent No.2.

#. It is submitted by Ms. Ahuja, learned advocate

appearing for the revisioner that the present petitioner was not joined as the respondent opponent in Revision Application in the Criminal Revision application preferred before the learned City Sessions Judge though the criminal case arising out of the private complaint under Section 138 of the Negotiable Instrument Act, is very well pending before the learned Metropolitan Magistrate.

#. It is submitted by Mr. Patel that the learned City Sessions Judge, shall hear the present applicant as he is one of the opponents in the revision application. It is contended by Mr. Patel that as the order was passed by the learned Metropolitan Magistrate rejecting the adjournment application, was not because of the objection raised by the learned advocate appearing for the complainant. Therefore, the applicant was not required to be joined as one of the opponents in the revision application. But considering the facts and circumstance available on the face of the record, this submission not being legal, is rejected.

#. In above situation, Mr. Mahendra Patel, learned advocate appearing for the respondent No.2 fairly concedes and states that this revision may be allowed and the order passed by the learned City Sessions Judge, Ahmedabad in Criminal Revision Application No : 87/99 may be quashed and set aside and the learned City Sessions Judge may be directed to decide the revision application afresh.

#. In the result present Criminal Revision Application is allowed. The impugned order dated 16-3-1999 passed by learned Additional Sessions Judge, Court No : 18, Ahmedabad in Criminal Revision Application No : 87/99 is hereby quashed and set aside. The learned Additional City Sessions Judge is directed to decide the Criminal Revision Application No : 87/1999 afresh, de novo and in accordance with law by affording an opportunity of hearing to the applicant herein and without being influenced with the previous findings recorded by the Court. Rule is made absolute. No costs. Direct Service is permitted.

Date : 2-9-1999 [C.K.Buch, J.]

#kailash#